

Message Text

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ACTION COME-00

INFO OCT-01 EA-12 ISO-00 EB-08 TRSE-00 AGRE-00 /021 W
-----024357 230128Z /66

R 230039Z JUN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 9042

UNCLAS SECTION 01 OF 02 TOKYO 11416

PASS COMMERCE FOR ASSISTANT SECRETARY WEIL

E.O. 11652: NA
TAGS: BEXP, ETRD, JA, US
SUBJECT: TRADE FACILITATION COMMITTEE: CASE NO. 5--
AMERICAN TOBACCO INSTITUTE

REF: (A) STATE 155598, (B) TOKYO 11284, (C) TOKYO 10094,
- (D) TOKYO 6432

1. SUMMARY: MITI HAS WITHDRAWN MAY 23 LETTER TRANSMITTED
BY REF B AND REPLACED IT WITH FOLLOWING TEXT WHICH CON-
TAINS ADDITIONAL INFORMATION ON DISTRIBUTION AND PRICING
OF IMPORTED CIGARETTES IN JAPAN. EXCEPT FOR NOTICE OF
PRICE REDUCTION BY 10 YEN PER PACK ON IMPORTED BRANDS,
JUNE 19 LETTER APPEARS TO US TO BE RESTATEMENT OF PREVIOUS-
LY KNOWN FACTS. MITI, HOWEVER, SEEMS TO REGARD JTS ACTIONS
REPORTED IN THE LETTER AS A SOLUTION AND REQUESTS THAT THE
CASE BE CONSIDERED AS "VIRTUALLY CLOSED". EMBASSY SUGGESTS
THAT LETTER BE DISCUSSED WITH AMERICAN TOBACCO INSTITUTE.
IF LETTER IS NOT REGARDED AS INDICATING SIGN OF PROGRESS,
DEPARTMENT MAY WISH TO CONSIDER RAISING ISSUE IN GATT AS
VIOLATION OF ARTICLE 17.

2. TEXT FOLLOWS:

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- "JUNE 19, 1978
MR. JACK B. BUTTON
MINISTER COUNSELLOR FOR AFFAIRS
EMBASSY OF THE UNITED STATES OF AMERICA
10-5 AKASAKA 1-CHOME
MINATO-KU, TOKYO, JAPAN

DEAR MR. BUTTON,

AS CO-CHAIRMAN OF THE TOKYO GROUP OF THE JOINT U.S.-JAPAN TRADE FACILITATION COMMITTEE, I WOULD LIKE TO TAKE THE OPPORTUNITY TO GIVE YOU FURTHER INFORMATION ON THE IMPORTATION OF U.S. MANUFACTURED CIGARETTES TO WHICH I HAVE ALREADY RESPONDED IN MY LETTER OF APRIL 10 (T.F.C. CASE NO. 5).

FIRST OF ALL, MAY I DRAW YOUR ATTENTION TO THE LIMITATIONS ON THE DISTRIBUTION OF U.S. MANUFACTURED CIGARETTES TO RETAIL OUTLETS.

WHEN A TOBACCO SHOP APPLIES FOR PERMISSION TO SELL IMPORTED TOBACCO, THE JAPAN TOBACCO AND SALT PUBLIC CORPORATION WILL PERMIT THE APPLICATION IF THE SHOP IN QUESTION IS EXPECTED TO SELL MORE THAN THIRTY CARTONS OF ALL THE BRANDS OF IMPORTED CIGARETTES PER MONTH. THE REASONS WHY THE EXPECTATION OF SALES OF A CERTAIN QUANTITY IS REGARDED AS THE STANDARD FOR PERMISSION ARE AS FOLLOWS:

1. IF THE CORPORATION PERMITTED SALES OF TOBACCO TO A SHOP WHERE THE DEMAND IS LOW IT WOULD CAUSE THE SHOP TO HAVE A DEAD STOCK OF TOBACCO WHICH WOULD RESULT IN THE DETERIORATION OF TOBACCO AND THEREBY SPOIL THE REPUTATION NOT ONLY

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OF THE RETAILER BUT OF MANUFACTURERS. FURTHERMORE, THE SALES OF DETERIORATED TOBACCO WOULD SERIOUSLY AFFECT THE RELIABILITY OF THE CORPORATION IN THE EYES OF THE PUBLIC.

2. SINCE THE JAPAN TOBACCO AND SALT PUBLIC CORPORATION IS A MONOPOLY WHICH DISTRIBUTES BOTH ITS OWN PRODUCTS AND IMPORTED ONES BY ITS OWN EXPENSE, ITS DISTRIBUTION COSTS WOULD BE UNNECESSARILY HIGH IF THE CORPORATION DISTRIBUTED TOBACCO TO A SHOP WHERE THE DEMAND FOR TOBACCO IS LOW. THE STANDARD FOR PERMISSION OF MONTHLY SALES OF MORE THAN THIRTY CARTONS IS THOUGHT TO BE A REASONABLE ONE. MOREOVER, IN 1977 122 TOBACCO SHOP WERE GIVEN PERMISSION TO SELL IMPORTED TOBACCO OUT OF 136 APPLICANTS FROM TOBACCO RETAILERS IN THE TOKYO, OSAKA AND NAGOYA AREAS. FROM THIS, IT CAN BE SAID THAT PERMISSION FOR SHOPS TO SELL IMPORTED TOBACCO IS GIVEN ALMOST AUTOMATICALLY.

SECONDLY, WITH RESPECT TO THE ADVERTISING OF CIGARETTES, THE JAPAN TOBACCO AND SALT PUBLIC CORPORATION LIMITS THIS TO THE ANNOUNCEMENT OF ITS OWN NEW PRODUCTS, IN CONSIDERATION OF RECOMMENDATIONS OF WHO. THE CORPORATION ALSO INTRODUCES NEW BRANDS OF IMPORTED TOBACCO THROUGH PRESS

RELEASES, AND POSTER DISPLAYS AT TOBACCO SHOPS, THUS THE CORPORATION DOES NOT DISCRIMINATE AGAINST IMPORTED TOBACCO IN ITS ADVERTISING POLICY. FURTHERMORE, WHEN THE CORPORATION IMPORTS NEW BRANDS OF FOREIGN TOBACCO, IT FIRST DISTRIBUTES THEM TO 29 SERVICE CENTERS AND 10 TOBACCO CENTERS THROUGHOUT THE COUNTRY FOR THEIR DISPLAY AND ONE YEAR TRIAL SALES PERIOD. WHEN THE CORPORATION FINDS SIGNIFICANT DEMAND FOR NEW BRANDS OF IMPORTED TOBACCO (AFTER REVIEWING THE RESULT OF TEST SALES), IT DISTRIBUTES THEM FOR NORMAL SALES TO THE TOBACCO SHOPS WHICH SELL IMPORTED TOBACCO ALL OVER THE COUNTRY.

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ACTION COME-00

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THIRDLY, THE JAPAN TOBACCO AND SALT PUBLIC CORPORATION HAD HITHERTO IMPORTED ALL BRANDS OF IMPORTED TOBACCO ON ONE-YEAR CONTRACTS, WITH DELIVERY TAKEN TWICE A YEAR, THE QUANTITY OF WHICH WAS BASED UPON THE CORPORATION'S PREDICTIONS OF DEMAND FOR THE PERIOD CONCERNED. SINCE THE JAPANESE FISCAL YEAR 1977 THE CORPORATION HAS, IN PRINCIPLE, MADE DIFFERENT CONTRACTS THAT THE CORPORATION RECEIVES TOBACCO REQUIRED TO MEET THE DEMAND WHENEVER THE DEMAND FOR TOBACCO GOES UP, WHICH IS STORED IN BONDED WAREHOUSES BY FOREIGN EXPORTERS. THESE CONTRACTS HAVE ENABLE THE CORPORATION TO SUPPLY IMPORTED TOBACCO TO RETAILERS EASILY WHEN DEMAND INCREASES.

FINALLY, THE CORPORATION PLANS TO CUT DOWN RETAIL PRICES ON ALL THE BRANDS OF IMPORTED TOBACCO BY Y10 PER PACKET FROM JULY 1, 1978. THIS IS BECAUSE THE CORPORATION INTENDS TO PROMOTE THE SALES OF IMPORTED TOBACCO IN JAPAN IN CONSIDERATION OF THE RECENT APPRECIATION IN THE YEN,

DESPITE THE FACT THAT IMPORT PRICES WILL BE RAISED BY
12 TO 13 PERCENT FOR U.S. TOBACCO, AND BY 20 PERCENT FOR
BRITISH TOBACCO IN THE NEW CONTRACTS EFFECTIVE JULY 1,
1978.

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I HOPE YOU WILL CONSIDER THIS CASE VIRTUALLY CLOSED IN THE
LIGHT OF THIS ADDITIONAL INFORMATION ABOUT THE EFFORTS OF
JAPAN TOBACCO AND SALT PUBLIC CORPORATION.

- SINCERELY YOURS,

- /S/
- SOSUKE HANAOKA
- DEPUTY DIRECTOR-GENERAL
- INTERNATIONAL TRADE POLICY
- BUREAU
- MINISTRY OF INTERNATIONAL
- TRADE AND INDUSTRY"

END TEXT.

3. COMMENT: DEPARTMENT WILL NOTE THAT MITI WISHES TO
REGARD THIS CASE AS "VIRTUALLY CLOSED", GIVING THE IM-
PRESSION THAT A FAVORABLE SOLUTION HAS BEEN ACHIEVED.
EXCEPT FOR THE NOTICE OF A PRICE DECREASE EFFECTIVE
JULY 1, THE LETTER DOES NOT APPEAR TO US TO CONTAIN ANY
SIGNIFICANT NEW INFORMATION. FRANKLY, WE DO NOT SEE THAT
IT REPRESENTS A FULL SOLUTION ALTHOUGH, THROUGH UN-
FAMILIARITY WITH THE DETAILS OF MARKETING TOBACCO
PRODUCTS IN JAPAN, WE MAY BE MISSING SOMETHING. THE
AMERICAN TOBACCO INSTITUTE MAY FEEL THAT THIS LETTER
REPRESENTS A SIGN OF PROGRESS. OVER THE PAST FEW
YEARS THE NUMBER OF OUTLETS HANDLING FOREIGN CIGARETTES
HAS INCREASED AS HAS THE ABSOLUTE VOLUME OF SALES AND
JTS SOURCES SUGGEST THAT THE MARKET SHARE FOR IMPORTED
CIGARETTES MAY INCREASE SLIGHTLY OVER THE NEXT TWO TO
THREE YEARS. IF U.S. CIGARETTE EXPORTERS DO NOT BELIEVE
THAT THE ABOVE LETTER DOES REPRESENT A SOLUTION, EMBASSY
SUGGESTS THAT THE DEPARTMENT CONSIDER TAKING ACTION TO
INITIATE NEGOTIATIONS UNDER GATT XVII:3 AS A STATE
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TRADING CASE AS WE RECOMMENDED IN REFTTEL B ON THE
FILTRONA FILTER CASE.
MANSFIELD

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Message Attributes

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Litigation History:
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